

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

A&amp;H Sportswear Co., Inc.

(b) County of Residence of First Listed Plaintiff Northampton County, PA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Stephen G. Harvey, Steve Harvey Law LLC, 1880 JFK Blvd., Suite 1715  
Philadelphia, PA 19103, 215-438-6600

**DEFENDANTS**

Jennifer Vronides d/b/a Miracle Waist Shapers

County of Residence of First Listed Defendant Kings County, NY  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         | PTF                        | DEF                                   |                                                               | PTF                                   | DEF                        |
|-----------------------------------------|----------------------------|---------------------------------------|---------------------------------------------------------------|---------------------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5            | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | Foreign Nation                                                | <input type="checkbox"/> 6            | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions:

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1121; 15 U.S.C. §§ 1331, 1338(a) and (b); 15 U.S.C. § 1367(a); 15 U.S.C. § 1114(1), 1125(a) and (c)

Brief description of cause:

Trademark infringement, false designation of origin, unfair competition, dilution, and injury to business reputation

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

Greater than \$150,000

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE Jeffrey L. SchmehlDOCKET NUMBER 5:16-cv-06589-JLSDATE  
09/20/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 110 Commerce Way, Stockertown, PA 18083

Address of Defendant: 339 42nd Street, Brooklyn NY 11232-3505

Place of Accident, Incident or Transaction: Stockertown, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: 5:16-cv-06589

Judge

Jeffrey L. Schmehl

Date Terminated:

Pending

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☒ No ☐

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases

(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☒ All other Diversity Cases

(Please specify) Trademark infringement

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Stephen G. Harvey, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: September 20, 2017

Stephen G. Harvey

Attorney-at-Law

58233

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: September 20, 2017

Stephen G. Harvey

Attorney-at-Law

58233

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

A&amp;H Sportswear Co., Inc.

V.

Jennifer Vrionides d/b/a  
Miracle Waist Shapers:  
:  
:  
:  
:  
:

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

September 20, 2017

**Date**

Stephen G. Harvey

**Attorney-at-law**

Plaintiff

**Attorney for**

215-438-6600

**Telephone**

215-438-6666

**FAX Number**

steve@steveharveylaw.com

**E-Mail Address**

**Civil Justice Expense and Delay Reduction Plan  
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS  
(See §1.02 (e) Management Track Definitions of the  
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

A & H SPORTSWEAR CO., INC.

Plaintiff,

v.

JENNIFER VRIONIDES d/b/a  
MIRACLE WAIST SHAPERS,

Defendant.

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)  
)  
)  
)  
)

CIVIL ACTION NO.

**JURY TRIAL  
DEMANDED**

**COMPLAINT FOR TRADEMARK INFRINGEMENT,  
TRADEMARK DILUTION, AND UNFAIR COMPETITION**

Plaintiff, A & H Sportswear Co. Inc. (“A&H”), alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters:

**NATURE OF THIS ACTION**

1. This is a civil action for trademark infringement and unfair competition under federal, state, and common law, and trademark dilution under federal and state law. A&H seeks equitable and monetary relief from Defendant’s violations of A&H’s trademark rights in its MIRACLESUIT, MIRACLESHAPER, and other MIRACLE-formative marks.

2. Defendant has been offering for sale, selling, and promoting shapewear, swimwear, and related products under the names and marks MIRACLE WAIST SHAPERS, MIRACLE WAIST, and MIRACLE BEAUTIES (the “Unauthorized MIRACLE Marks”) in violation of A&H’s trademark rights. Defendant is free-riding off A&H’s hard-earned goodwill at the expense of both A&H and consumers, who are likely to believe Defendant has a relationship with A&H and/or her products are made, approved, and/or licensed by A&H.

### **PARTIES**

3. Plaintiff A&H is a Pennsylvania corporation with a principal place of business at 110 Commerce Way, Stockertown, Pennsylvania 18083.

4. Defendant Jennifer Vrionides is an individual with an address at 339 42<sup>nd</sup> Street, Brooklyn, New York 11232-3505, doing business as Miracle Waist Shapers, which is located at 7029 65th Place, Glendale, NY 11385.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b). Because A&H is a citizen of the Commonwealth of Pennsylvania, Defendant is a citizen of New York, and the matter in controversy exceeds \$75,000 exclusive of interest and costs, the Court also has jurisdiction under 28 U.S.C. § 1332. The Court has supplemental jurisdiction over A&H's state-law claims pursuant to 28 U.S.C. § 1367(a) because they are substantially related to its federal claims and arise out of the same case or controversy.

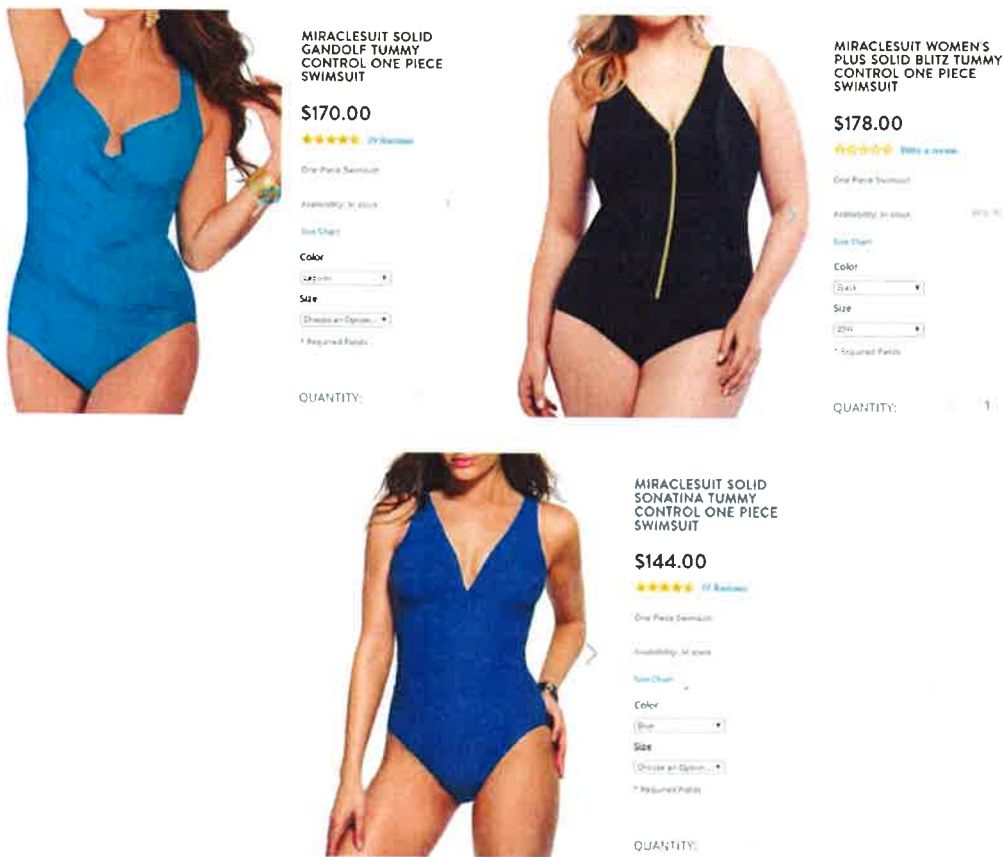
6. This Court has specific personal jurisdiction over Defendant because she has purposefully availed herself of the privilege of conducting business in Pennsylvania. Defendant offers, markets, promotes, and sells her products that are the subject of this lawsuit through her websites to consumers located in Pennsylvania.

7. Venue lies in this District pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events giving rise to A&H's claims have occurred and are continuing to occur in this District and A&H's trademarks at issue are located in this District, where A&H maintains its principal place of business.

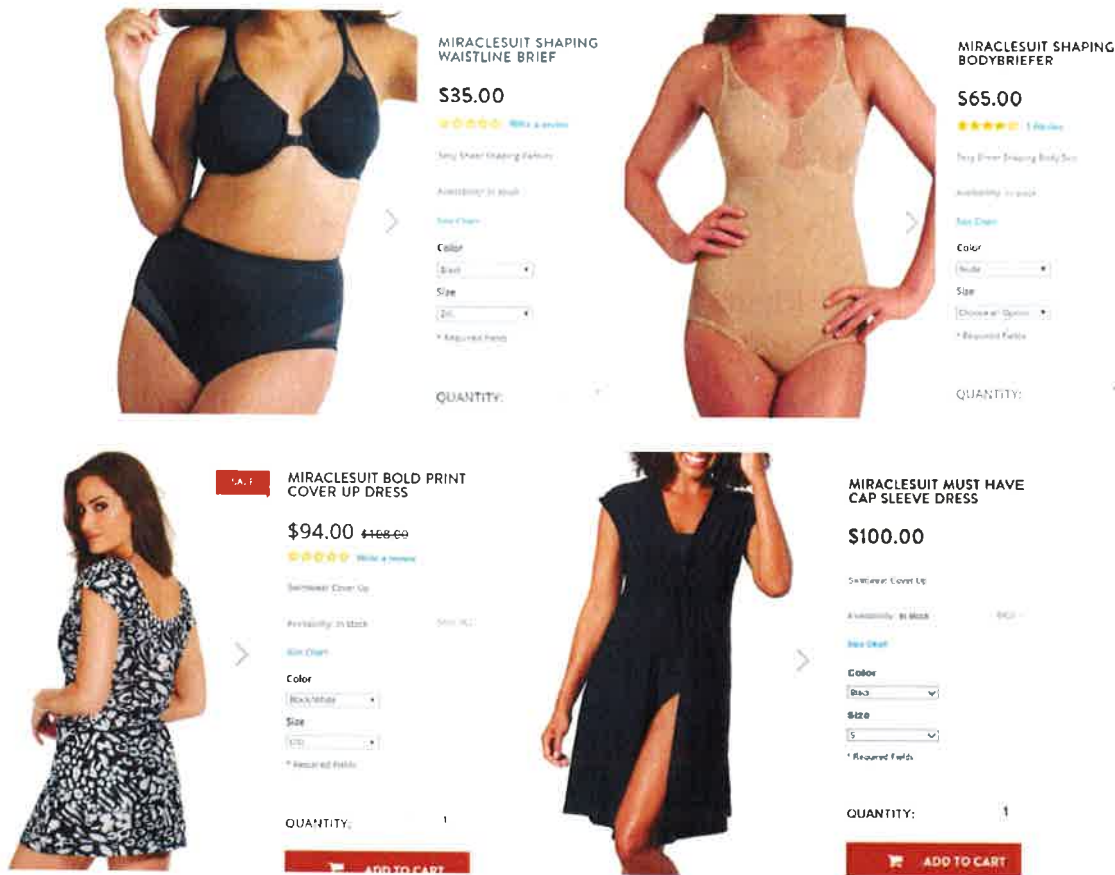
## A&H, ITS PRODUCTS, AND ITS MIRACLE TRADEMARKS

8. With roots tracing back to the 1930's, A&H is one of the most successful and admired makers of swimwear and shapewear. Through innovative engineering, A&H helped revolutionize the swimwear industry by introducing swimwear with patented shaping technology and construction that allowed for both horizontal control and vertical stretch.

9. Since as early as 1991, A&H has continuously used and promoted the mark MIRACLESUIT in connection with its innovative figure-shaping swimsuits, as shown in the examples below:

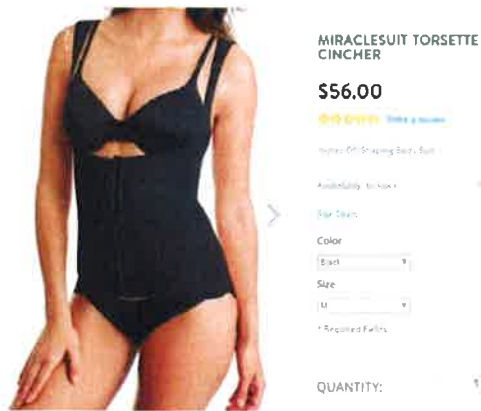


10. By 1995, A&H expanded its MIRACLESUIT product line to include bras, lingerie, leotards, shorts, cover-ups, and dresses, as shown in the examples below:



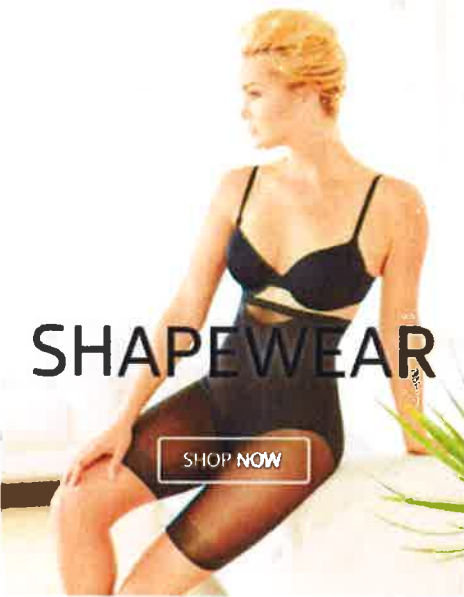
11. Capitalizing on the ongoing success of its line, in 2001 A&H introduced a full suite of shapewear under the MIRACLESUIT mark, as shown in the representative examples below:






Over the years, A&H has sold millions of products in connection with its MIRACLESUIT mark.

12. In addition to its MIRACLESUIT mark, A&H has for many years used and promoted the mark MIRACLE SHAPER and numerous other MIRACLE marks in connection with its wide range of products, including MIRACLEBODY, MIRACLEJEANS, MIRACLE DRESS, and WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE (individually and collectively the “MIRACLE Marks”). These MIRACLE Marks have been used and promoted individually and together (as shown below), so that consumers have come to associate the MIRACLE portion of the marks with one source, namely A&H.



## SHAPEWEAR

SHOP NOW



## MIRACLEBODY

SHOP NOW

★ REVIEWS

Designed to drastically slim underneath your best dressed to impress **Miraclesuit** Shapewear features **MiracleShaper®** extra firm control, undeniable shaping, and a Fit Advantage that comfortably clings to your curves to create a most confident look.

**Miraclebody's** form-flattering collection of jeans and tops features our signature tummy control panel and hidden inner liners to comfortably conceal **Miracle Jean®** premium denim is specifically crafted to enhance your life and style - giving every BODY a flawless figure.



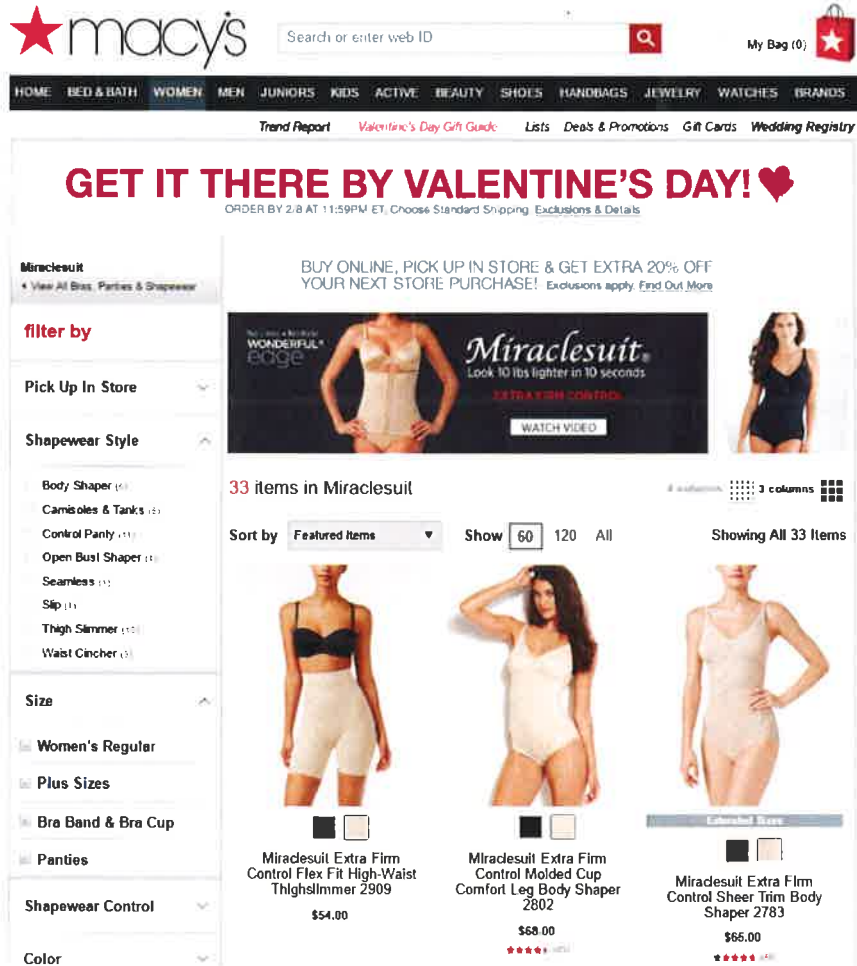
Miraclebody Oversized Stripe Camp Shirt  
Regular Price: \$108.00

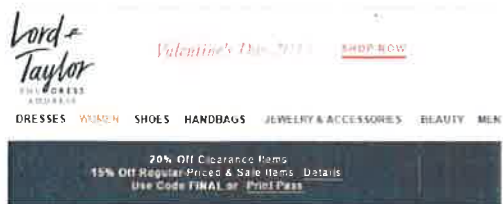


Miraclebody Oversized Broken Arrow Camp Shirt  
Regular Price: \$108.00

## A&H'S SALES AND PROMOTION OF ITS MIRACLESUIT-BRANDED PRODUCTS

13. A&H has sold millions of dollars' worth of products under its MIRACLESUIT and other MIRACLE Marks. Those products are promoted, offered, and sold nationwide through a wide variety of retail means, including A&H's website (<http://www.miraclesuit.com/>) and numerous national, regional, and specialty retailers and e-tailers such as *Macy's*, *Nordstrom*, *Zappos.com*, *6PM.com*, *Swimoutlet.com*, *Chicos.com*, *Bloomingdales*, *Dillard's*, *Lord & Taylor*, *Belk*, *Everything but Water*, *Swim 'N Sport*, *Soma*, *Chico's*, *Talbot's*, *Bare Necessities*, and many others, as shown in the examples below:





SHOP BY CATEGORY  
Women (150) ▾

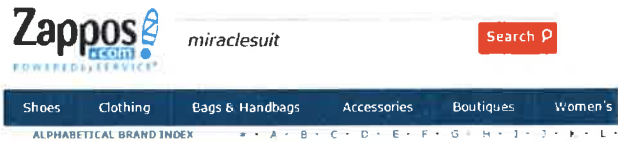
Home > Text Search: miraclesuit > Women > Lingerie, Bras & Shapewear

Search Results for: miraclesuit

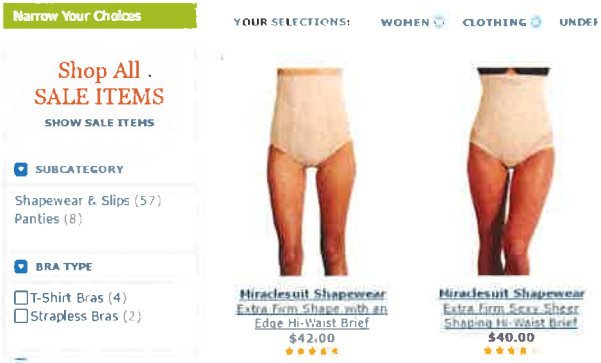
REFINE BY:

Brand ▾ Price ▾ Product Type ▾ Style ▾

SORT: Newest | Brand A to Z | Lowest Price | Highest Price | Top 1



"Miraclesuit Women Underwear & Intimates" we found 57 items!



bare necessities<sup>®</sup>  
SUPPORT...BEYOND MEASURE™

Search

BRAS BY SIZE BRAS PANTIES HOSIERY SHAPEWEAR SLEEP SWIM SEXY ACTIVE MEN BRANDS CLEARANCE

YOUR RESULTS: MIRACLESUIT SHAPEWEAR (24 STYLES)

FILTER BY: DEPARTMENT: SHAPEWEAR x SHAPEWEAR STYLE SIZE BRA SIZE COLOR +

Sort: Best Sellers

Viewing All 24 Items



14. A&H's products are also offered and sold through the websites and mail order catalogs of many of its retailers and through A&H's affiliated websites, catalogs, and toll-free call center.

15. For years, A&H has spent millions of dollars advertising and promoting its MIRACLE Marks and products to the general public. A&H has widely and extensively done so through virtually every available type of print and digital media, including nationally circulated magazines, online blogs and journals, social media, television segments, bus billboards, and New York Fashion Week events, as shown in the examples below:



miraclesuitswim

Follow

69 likes

25w

miraclesuitswim Miraclesuit red H O T on the cover of The Swim Journal July/August Issue 🌟🔥

victoriajanashvilipphoto ❤️❤️

miraclesuitswim #miraclesuit #miraclesuitswim #swimsuit #swimwear #onepiece #redhot #cover #swimjournal #theswimjournal #editorial #sexy #model #photoshoot #pr #puertorico

alyssadkane 🍷❤️🇺🇸👇

anabrillembourg 🍷🍷

As Seen In:  
**RACHAEL**

**Miraclesuit**  
Look 10 lbs Lighter in 10 Seconds

Date: May 10, 2013  
URL: 484.022



Battle the Bulge by Switching Your Swimsuit



Could a bathing suit be the answer to a slimmer look this summer? Gretta Monahan helps a few viewers ditch their unflattering swimwear and find new suits that give them the confidence and a thinner appearance!



**Miraclesuit**  
Look 10 lbs Lighter in 10 Seconds

**INSTAGRAM**  
Date: June 2015  
Followers: 180  
Photo Likes: 23  
Type: Social Media



stylesenceblog

Jenna Walsh | Stylist/Model | Everyday inspiration with a twist (of the unexpected)  
stylesenceblog.com

496 posts · 180 followers · 332 following

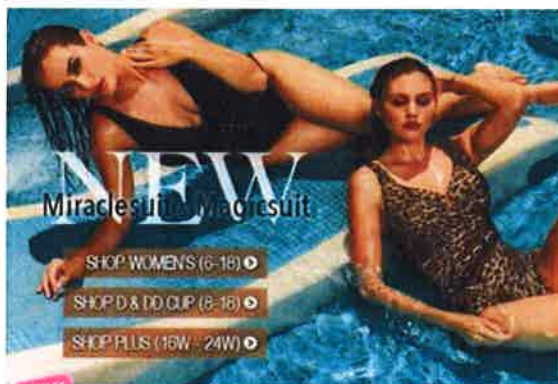


stylesenceblog

21 likes

mywonderday brother said "look how my summer bag just today" #ootd #fashion #fashion #fashion #fashion

Log in to like or comment



NEW

Now featuring #mymiracle

Share your miracle moments on Instagram using #mymiracle, and tag @miraclesuitswim for a chance to be featured in our gallery!

#MyMiracle #miraclesuitswim



miraclesuitswim

Follow

29 likes

68w

miraclesuitswim Share your Miraclesuit moments on Instagram using #mymiracle and tagging us for a chance to be featured on our website! #mymiracle #miraclesuitswim #experiencethemiracle #miraclesuit #magicsuit #magicsuitswim #miraclebody #miraclebodyjeans

Log in to like or comment

68w



miraclesuitswim

Follow

36 likes

136w

miraclesuitswim Fabulous beach essentials  
#miraclesuit #miraclesuitswim #swimsuit  
#swim #beach #beachday #lipgloss  
#magazines #sunglasses #sunhat #coffee  
#wedges #polaroid #pictures  
#dryshampoo #mirror #jewelry #lotion

miraclesuitswim @dior sunglasses, @aveda  
lotion, @ninevest wedges,  
@weightwatchers magazine, @lauramercier  
lipgloss, @michaelkors ring, @oldnavy cup,  
@miraclesuitswim swimsuit #starburst  
miraclesuitswim #ootd

Log in to like or comment...

...



miraclesuitswim  
Butterfly Studio Salon

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miraclesuitswim Gift bags ready to go!!  
@montrends @butterflystudiosalon  
#trendytravel

mommytipsbycole So bummed I missed it!  
mommede Me too hate that I missed it!  
@miraclesuitswim

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...

16. In addition to its own substantial advertising and promotional activities, A&H and its MIRACLE Marks and products have received and continue to receive widespread unsolicited media coverage and features in countless printed publications, including *The Huffington Post*, *InStyle Magazine*, *Seventeen Magazine*, *Woman's Day*, *O Magazine*, *Good Housekeeping*,

*Health Magazine*, and *WeightWatchers Magazine*. They have also been featured on popular television programs, including the *Rachel Ray Show*, *CBS News*, *Good Morning America*, and the *TODAY Show*. Representative media coverage is shown below:



SEVENTEEN  
**Miraclesuit**  
 Look 10 lbs Lighter in 10 Seconds  
 Date: May 2014  
 Circulation: 2,010,619  
 Type: Magazine  
 Page: 43



WOMAN'S DAY  
**Miraclesuit**  
 Look 10 lbs Lighter in 10 Seconds  
 Date: August 2013  
 Circulation: 3,374,479  
 Type: Magazine  
 Page: 10





17. A&H owns, among others, the following valid and subsisting U.S. federal trademark registrations for its MIRACLE Marks:

Mark	Reg. No.	Reg. Date	Products/Services
MIRACLESUIT	2631990	10/08/02	Men's and women's sportswear, namely, shorts, pants, tops, bodysuits; uniforms; intimate apparel, namely, shapers, girdles, figure controlling underwear; bodywear, namely, leotards in Class 25
MIRACLESHAPER	4135953	05/01/12	Swimwear; jeans; activewear, namely, shorts, pants, shirts, and tops; and sportswear, namely, shorts, pants, shirts and tops in Class 25
MIRACLEBODY	2011542	10/29/96	Bodywear, namely body shapers, body suits; and swimwear; and women's and children's leotards; dancewear, namely, tights and unitards in Class 25
MIRACLEJEANS	4115402	03/20/12	Jeans; activewear, namely pants and shirts in Class 25

Printouts of these registrations from the U.S. Patent and Trademark Office database are attached as Exhibit A.

18. As a result of their distinctive nature and strength, significant commercial success, widespread advertising, and long-standing and extensive publicity, A&H's MIRACLE Marks are well-known and have been so for years.

#### **DEFENDANT'S WRONGFUL ACTIVITIES**

19. Without A&H's authorization or approval, Defendant (who does business as "Miracle Waist Shapers") has been offering, promoting, and selling shapewear and swimwear under MIRACLE WAIST SHAPERS, MIRACLE WAIST, MIRACLE BEAUTIES, and other MIRACLE names and marks.

20. Defendant has promoted and sold her shapewear and swimwear products under the Unauthorized MIRACLE Marks online, including through online stores located at <http://mws.bigcartel.com/> and <http://www.bestwaistshapers.bigcartel.com/>:



WWW.ZUNZUN.COM 2004

WWW.MIRACLESHAPERS.COM

# MIRACLE WAIST SHAPERS

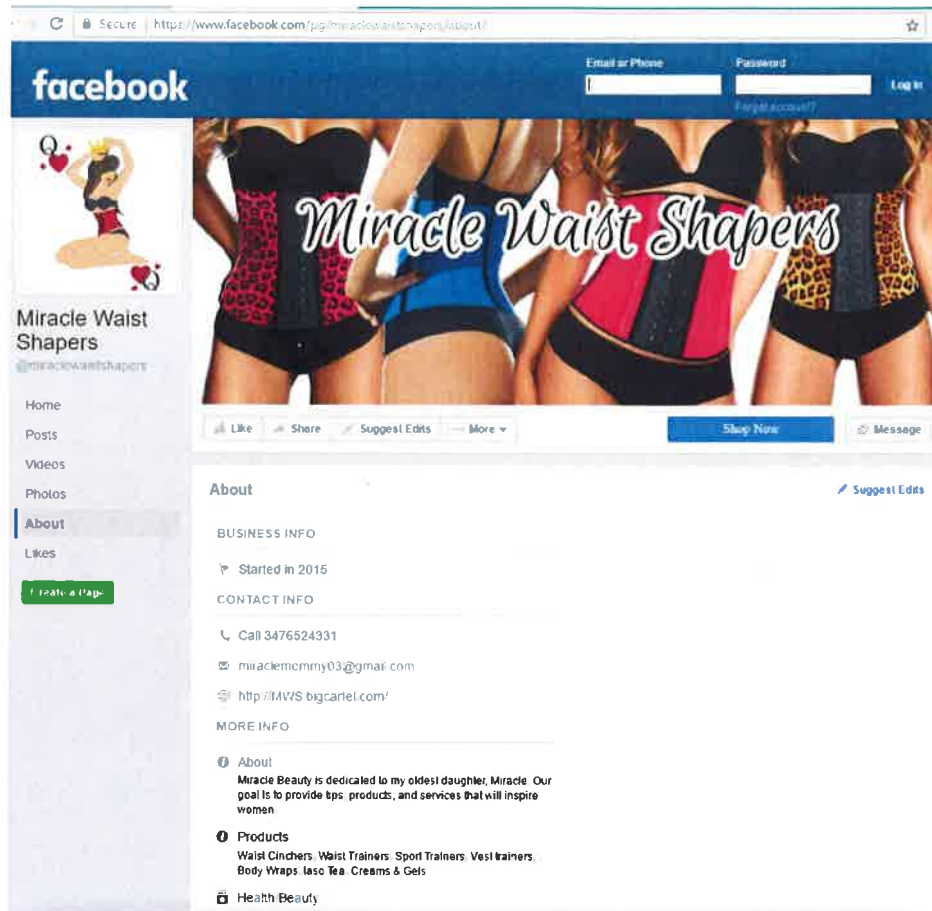


## MIRACLE WAIST SHAPERS

ANNALS OF THE ENTOMOLOGICAL SOCIETY OF AMERICA



21. Like A&H, Defendant also promotes her Unauthorized MIRACLE Marks and products via social media, including Facebook (as shown in the example below):



22. Defendant has also used the name and mark MIRACLE BEAUTIES in connection with processing payments from the sales of her MIRACLE WAIST SHAPERS-branded products through PayPal.

23. A&H sent Defendant two letters, each demanding that she stop using the Unauthorized MIRACLE Marks. Defendant ignored A&H's demands and has continued her unauthorized uses.

24. Defendant knew that her uses of the Unauthorized MIRACLE Marks violate A&H's rights in its MIRACLE Marks. As a result, Defendant has acted knowingly, willfully, in reckless disregard of A&H's rights, and in bad faith.

#### **INJURY TO A&H AND THE PUBLIC**

25. Defendant's uses of the Unauthorized MIRACLE Marks are likely to cause confusion, mistake, and deception as to the source or origin of Defendant's products, and are likely to falsely suggest a sponsorship, connection, or association between Defendant, her products, and/or her commercial activities with A&H.

26. Defendant's uses of the Unauthorized MIRACLE Marks are likely to dilute the distinctiveness and value of A&H's famous MIRACLESUIT mark.

27. Defendant's acts, as described above, have damaged and irreparably injured and, if permitted to continue, will further damage and irreparably injure A&H and its MIRACLE Marks.

28. Defendant's acts, as described above, have damaged and irreparably injured and, if permitted to continue, will further damage and irreparably injure the public, who has an interest in being free from confusion, mistake, and deception.

#### **FIRST CLAIM FOR RELIEF Trademark Infringement Under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)**

29. A&H repeats and re-alleges each and every allegation set forth in paragraphs 1 through 28 of this Complaint.

30. Without A&H's consent, Defendant used and continues to use in commerce reproductions, copies, and colorable imitations of A&H's registered MIRACLE Marks in connection with the offering, distribution, and advertising of goods, which is likely to cause

confusion, or to cause mistake, or to deceive, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

**SECOND CLAIM FOR RELIEF**  
**Trademark Infringement, False Designation**  
**of Origin, Passing Off, and Unfair Competition**  
**Under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)**

31. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 30 of this Complaint.

32. Defendant's actions, as described above, are likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship, or approval of Defendant, her products, and/or her commercial activities by or with A&H, and thus constitute trademark infringement, false designation of origin, passing off, and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

**THIRD CLAIM FOR RELIEF**  
**Common-Law Trademark Infringement**  
**and Unfair Competition**

33. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 32 of this Complaint.

34. Defendant's actions, as described above, are likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with A&H, or as to the origin, sponsorship, or approval of Defendant, her products, and her commercial activities by or with A&H such that Defendant's acts constitute infringement of A&H's proprietary rights in the MIRACLE Marks, misappropriation of A&H's goodwill in those marks, and unfair competition under Pennsylvania common law.

**FOURTH CLAIM FOR RELIEF**  
**Trademark Dilution Under Section**  
**43(c) of the Lanham Act, 15 U.S.C. § 1125(c)**

35. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 34 of this Complaint.

36. Plaintiff's MIRACLESUIT mark is famous, as that term is used in 15 U.S.C. § 1125(c), and was famous prior to Defendant's first use of the Unauthorized MIRACLE Marks based on, among other things, the federal registration of Plaintiff's MIRACLESUIT mark and the extensive nationwide use, advertising, promotion, and recognition of the mark.

37. Defendant's actions, as described above, are likely to dilute the distinctive quality of Plaintiff's MIRACLESUIT mark via both blurring and tarnishment in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), as amended by the Trademark Dilution Revision Act of 2006.

**FIFTH CLAIM FOR RELIEF**  
**Injury to Business Reputation and Dilution**  
**Under 54 Pa. Stat. and Cons. Stat. Ann. § 1124**

38. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 37 of this Complaint.

39. Based on the inherent and acquired marketplace strength, extensive nationwide use, advertising, promotion, and recognition of A&H's MIRACLESUIT Mark in this Commonwealth, the MIRACLESUIT Mark is famous as that term is used in 54 Pa. Stat. and Cons. Stat. Ann. § 1124, and was famous before Defendant's first uses of the Unauthorized MIRACLE Marks.

40. Defendant's acts, described above, are likely to dilute the distinctive quality of A&H's MIRACLESUIT mark and cause injury to A&H's business reputation in violation of 54 Pa. Stat. and Cons. Stat. Ann. § 1124 et. seq.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38, Plaintiff respectfully demands a trial by jury on all issues properly triable by a jury in this action.

**PRAYER FOR RELIEF**

WHEREFORE, A&H requests that this Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. An Order declaring that Defendant's uses of the MIRACLE WAIST SHAPER, MIRACLE WAIST, and MIRACLE BEAUTIES marks infringe A&H's MIRACLE Marks, constitute unfair competition, and dilute A&H's MIRACLESUIT mark under federal, state, and/or common law, as detailed above;

B. A permanent injunction enjoining Defendant and her employees, agents, partners, companies, affiliates, distributors, dealers, and all persons in active concert or participation with any of them:

1. From using or registering MIRACLE WAIST SHAPER, MIRACLE WAIST, MIRACLE BEAUTIES, and/or any other marks or names comprised of or containing MIRACLE in any form (including, but not limited to, in connection with any other wording or designs) and from using any other marks, logos, designs, designations, or indicators that are confusingly similar to any of A&H's MIRACLE Marks and/or dilutive of A&H's MIRACLESUIT mark;

2. From representing by any means whatsoever, directly or indirectly, that Defendant, any products or services offered by Defendant, or any activities undertaken by Defendant are associated or connected in any way with A&H, sponsored or authorized by A&H, or otherwise affiliated with A&H in any way;

3. From assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs B(1)-(2);

C. An order directing Defendant to destroy all products, packaging, signage, advertisements, promotional materials, stationery, forms, and/or any other materials and things that contain MIRACLE WAIST SHAPER, MIRACLE WAIST, MIRACLE BEAUTIES, and/or any other marks, names, logos, designs, designations, or indicators comprised of or containing MIRACLE or that are confusingly similar to any of A&H's MIRACLE Marks and/or dilutive of A&H's MIRACLESUIT mark;

D. An Order directing Defendant to identify and cancel all other domain names and social media webpages that Defendant owns or controls containing any of the Unauthorized MIRACLE Marks (including, but not limited to, any domain names comprised of or containing MIRACLE), any marks confusingly similar to any of A&H's MIRACLE Marks, and/or any marks dilutive of A&H's MIRACLESUIT mark;

E. An Order directing Defendant to, within thirty (30) days after the entry of the injunction, file with this Court and serve on A&H's attorneys a report in writing and under oath setting forth in detail the manner and form in which Defendant has complied with the injunction;

F. An Order directing Defendant to immediately send to A&H all products, advertisements, hangtags, promotional materials, stationery, forms, and/or any other materials and things that contain or bear any of the Unauthorized MIRACLE Marks and/or any other

marks or designations comprised of or containing MIRACLE or likely to be confused with A&H's MIRACLE Marks and/or dilute A&H's MIRACLESUIT mark;

G. An Order requiring Defendant to account for and pay to A&H any and all profits arising from the foregoing acts, and increasing such profits, in accordance with 15 U.S.C. § 1117 and other applicable laws;

H. An Order requiring Defendant to pay damages in an amount as yet undetermined (and including prejudgment and post-judgment interest) caused by the foregoing acts, and trebling such damages in accordance with 15 U.S.C. § 1117 and other applicable laws;

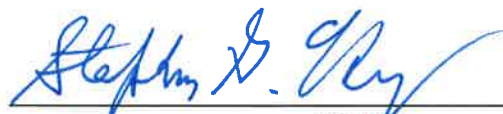
I. An Order requiring Defendant to pay A&H punitive damages for trademark infringement and unfair competition under Pennsylvania common law;

J. An Order requiring Defendant to pay A&H's costs and attorneys' fees in this action pursuant to 15 U.S.C. § 1117 and other applicable laws; and

K. Other relief as the Court may deem appropriate.

Dated: September 20, 2017

Respectfully submitted,



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